

**July 26, 2007 Minutes of
Bigfork Land Use Advisory Committee**

Committee members present: Darrel Coverdell, Mary Jo Naïve, Shelley Gonzales, John Bourquin, Gary Ridderhoff, Paul Guerrant and Phil Hanson. There were 46 members of the public present.

Chairman Bourquin called the meeting to order at 4:08 PM, and called for adoption of the agenda with the addition of questions regarding when subdivision regulations apply under Old Business. Agenda was approved with the change. M/S Guerrant/Hanson.

Minutes of the June 28, 2007 meeting were approved. M/S Coverdell/Guerrant.

ADMINISTRATOR'S REPORT:

A. The committee members were sent a report via email on the tour of the Bigfork Water & Sewer facilities. Members taking the tour were Darrel Coverdell, Gary Ridderhoff, Shelley Gonzales, Phil & Sue Hanson.

B. Attendance for the committee was reviewed. The attendance qualifications each year begin in June.

APPLICATIONS:

A. A request by Doug and Nancy Mahlum for a Zoning Variance to property within the Bigfork, RC-1 (Residential Cluster), Zoning District. The applicant is requesting a variance to section 3.14.040, Bulk and Dimensional Requirements, of the Flathead County Zoning Regulations, which requires a maximum height of 35 feet for the principal Structure, and 15 feet for the accessory structure. The applicant is placing a tennis bubble over the athletic/fitness facility that will be 36 feet high. The property is located at 850 Holt Drive, also listed as Canal Street.

STAFF: Alex Hogle reviewed the application and noted the 36' bubble is industry standard and is designed to connect to the primary structure. This parcel is not part of the adjacent subdivision and not covered by subdivision covenants. The Montana Athletic Club has been in business since 1992. The area to be covered is the east most tennis courts with the bubble measuring approximately 102' X 120' X 36'. The application meets set back requirements. The applicant will plant a vegetation buffer on the east boundary. Conditions include requiring storm water management. There have been 7 letters in opposition. The Staff recommends approval. He did not have the petition available at this time.

Guerrant: Isn't there a 15' limit on accessory structures? Yes, this is considerably higher.

APPLICANT: Doug Mahlum, owner of the Montana Athletic Club, noted the outdoor tennis courts have been used for 11 years. He indicated there is strong interest in the community for a year round facility. He has made an effort to find people willing to invest in the project. Tennis facilities are normally not financial boons. He would like to provide year round tennis. The bubble is air conditioned as well as heated. He passed a sample of the bubble fabric for the committee's information. There is a petition signed by tennis players in favor of the bubble.

Guerrant: Doesn't a fan inflate the bubble and how noisy is the fan? **A.** Yes, the heating and cooling units are separate. The noise might be equivalent to the air conditioning used in the church.

Naïve: Is the bubble prefabricated and are you limited to this height? A. Yes they are prefabricated. You can get bubbles of less height however they are not appropriate for tennis and are more costly. Will this be available to the High School? A. Yes Would this add any economic benefit to Bigfork such as tournaments? A. Some, but it's hard to hold a tournament on two courts. It would add another dimension to recreation in Bigfork.

Coverdell: How many active tennis players do you see in the winter months? A. That's hard to say. We are vastly underserved in the valley for indoor tennis.

Hanson: Would the facility be available to tourists? A. Yes, on a space available basis. Members have priority.

Coverdell: What is the height of the vegetation on the north side? A. The hedge is about 2' and the trees taller.

Gonzales: What are the fire problems with bubbles? A. They must meet codes for flammability. I've never heard of a bubble burning. Also, it takes a long time to collapse if the back up doesn't work. Could this be used for community events? A. Yes.

Bourquin: Do you see charging additional fees for the bubble? A. I anticipate more cost because of the expenses to operate.

Naïve: What size is the tennis group who signed the petition? A. There are about 15 signatures.

Gonzales: What is the noise level of the generator? A. Do not know the decibel level.

PUBLIC COMMENT:

Vic Erickson: Is on the Design Review Committee for Harbor Village. The bubble would be an eyesore.

Chuck Gough: There was a meeting of the Board of Directors of Harbor Village HOA last week. The vote was unanimous to ask for denial of the application. There are 160 homeowners and we were able to contact over 100. They are concerned with the looks, noise and affect on property values. This does not serve the whole community. They feel it is presumptuous for someone who doesn't live in the area to ask for the variance.

Denny Sabo: I'm a full time resident and volunteer and a tennis coach. There are 45 kids in High School, 30 in elementary school and approximately 50 to 100 adults who play tennis. Sports are important in our community. I fully support the project.

Elna Darrow: The issue is 35' or 36' feet and do we want it there. I am in favor of the project.

Betsy Platt: I represent the Eagle Bend Homeowners Association (184 owners) and am chairman of the Architectural Committee. The Association board voted to ask for denial of the application. Platt read a statement to the effect that the Eagle Bend community puts careful thought and consideration into maintaining a design and construction aesthetic complimentary to the environment and characteristics of Bigfork. The Bigfork Athletic Club is an integral part of the Eagle Bend and Harbor Village communities by virtue of its location. The Eagle Bend community believes the addition to the Athletic Club should be 1) A long term investment, 2) constructed in a thoughtful manner consistent with the club's existing building and 3) will not short-change the long term value of the club. An inflated bubble will detract from the visual appeal and the peaceful and quiet enjoyment of property owners in both developments.

Diane Edge: I live here year round, ski and play tennis. I have to drive to Kalispell to play tennis in the winter months. I play with people from Polson and other areas that pass right through here. This would be a wonderful thing for year-rounders. I think we have to accommodate public facilities.

Norman Fox: I live in Harbor Village in visual sight of the Athletic Club. I am opposed to the bubble.

Dan Harvey: I play tennis, live here year round and have young people. We need this for constructive activities in the winter months. It's a hardship to go to Kalispell. I fully support the project.

Keith Palmquist: I think the Health Club is a real asset. I'm opposed to the design of the tennis facility. I would support a different design.

Shirleen Weese: I live in visual distance from the tennis courts. I agree with Palmquist that the bubble is not compatible with the area. I am opposed to the project.

Gwen Sutherland: I am opposed to the appearance of the bubble structure and concerned about safety in storms like we have experienced in the area.

Vince Rasmussen: I live in Eagle Bend and will look right down on this bubble. We agree we need an enclosed tennis court but not a bubble. This is not fitting with our community.

Dan Shannon: I am executive director of a seasonal bubble facility in Minneapolis. The bubble comes down in the summer months and it works well. Would that be as big an issue?

Wade Allred: I live in Harbor Village. I bought because of the covenants and architectural committee. A bubble is ugly.

Dave Beyer: I can see both sides. The health club is important to the community.

Rita Livingstone: We live here year round and would like right at this bubble. We object to the appearance of the bubble. Our CCR's are very strict, that's why we bought here.

Close Public Comment:

Mahlum: I appreciate your concerns and will answer some of the questions. As to appearance, the bubble in Kalispell is old and has cables on the outside. This bubble has a smooth surface and is much more attractive. A rigid structure is not feasible for tennis because of the cost. A seasonable bubble would be great and would save on air conditioning costs. I would be willing to look at that. As far as bubble technology, these are made to inflate tighter in winds and are more rigid. If the bubble should go down, it would go straight down slowly. The snow does not stay on top; it slides down the sides. We are going to upgrade the interior of the club this year. Next year we will do improvements outside. We want it to fit into the surroundings.

Coverdell: How much would it cost for a seasonal? A. Depends on the condition.

Hanson: Don't think the comments pertain to the application. We're talking about an increase in the height of the accessory structure from 15' to 36'.

Ridderhoff: When you ask for 21' over the maximum height it's a lot to ask.

Gonzales: I will recuse myself from the discussion. My husband works for the club.

Naïve: Can we put a seasonal/part-time bubble as a condition or does that have to come back as another application? No answer

Bourquin: There are so many people who have to look at this bubble. Most who like the idea don't have to look at it from their home. In effect, most of the neighbors oppose the application.

Hanson: I would like to have seen more mitigation in the form of trees, etc.

Guerrant: I move to recommend denial of the application. Motion seconded by Hanson. Motion was passed 5-1 with Coverdell voting nay.

The Board of Adjustment will hear the application on Tuesday, August 7, 2007, 6:00 PM, at the Earl Bennett Building, 1035 First Avenue West, Kalispell.

B. A request by Randle and Roxanne Phelps, for a Conditional Use Permit to construct three buildings on 1 acre, within the Bigfork B-2 (General Business) Zoning District, requiring a Conditional Use Permit for multi-uses on one tract of land. Two of the three commercial building uses are permitted within the B-2 zoning district. However the Convention Center requires a Conditional Use Permit. The property is located at 7959 Highway 35 in Bigfork.

STAFF: B. J. Grieve noted the Convention Center is not an accurate description of the building proposed. It is proposed to be two stories, 2,500 sq. ft. and more accurately described as a Fellowship Hall. The property sits between Architectural Innovations and Branding Iron Station. It will have four uses in three structures.

1. The west structure will have four units (2 retail, 2 office).
2. The center structure will be a 6-unit vacation rental renting weekly/nightly, more like a motel.
3. The east structure is the Fellowship Hall. We have added a condition it will not be used for commercial purposes and may charge only for expenses incurred. A condition is also added to cover hours of operation. The upper level will be offices.

Guerrant: What will be the traffic load on Hwy 35? A. The trip generation figures indicate 225 for the offices plus 122 for the other uses. It is conditioned to have state access permits. Would the hall generate more traffic for say a wedding reception? A. It's not a commercial operation, but yes on occasion it will generate more traffic.

Coverdell: I see only 12 spaces for the Fellowship Hall. There are parking spaces in the lower level but no access like stairs to the upper level? A. There are 42 spaces required for the proposed uses. The area can have shared parking and is conditioned to provide pedestrian access connecting the structures.

Ridderhoff: Does the parking requirements include the office space above the Fellowship Hall? A. You can condition it as only private office space.

Gonzales: When the state decides to widen Hwy 35, how will it impact space for parking? A. The state must acquire right of way. Is there right of way now? A. Yes

Bourquin: Is there a way to make the layout compatible to highway expansion? A. No way to know where the expansion will be.

APPLICANT: Erica Wirtela from Sands Engineering noted some objections to some of the conditions. She objected to the landscape island because of parking, said a stairway would be too steep and does not want to improve the grade on the access road. She would like to reword condition #15 to add the language of the county zoning regulations and would also like to work on #18.

Randle Phelps: My son is attending Gonzaga University and his engineering class will be doing the architectural design for the project, which will be completed in May of 2008. H wants to use all reclaimed wood with a western theme. He's not sure about 1 or 2 stories for the Hall. He's going to let the students determine that. We have a 40' setback plus another 5' in the design. The state told him they have sufficient right of way for the road project. He intends to use the Hall for Boy Scouts, AA and civic meetings. He will not be doing weddings. The parking shows 45 degree parking and I may have to change the flow of traffic to allow for fire access behind the buildings. He will share the access road with Branding Iron Station and does not know if they have any plans to improve the grade of the road or pave. He would like to pave the road.

Guerrant: It appears that you have looked at the Bigfork Neighborhood Plan Draft. Thank you for considering the new BNP.

Gonzales: How do you plan to move people between facilities without encroaching on Branding Iron Station? A. I plan a bike path on the access road easement. How is the grade of the access road with respect to ADA standards? A. I don't know.

Bourquin: Have you considered storm water run off? A. I will comply with Flathead County regulations. I have also paid in advance for Water and Sewer connection.

PUBLIC COMMENT:

Julie Spencer: They will have to extend the main. The BWS does not want landscape obstructions over the water and sewer mains. It causes problems when we have to do repairs.

Sue Hanson: What is the county definition for Fellowship Hall? A. BJ that would come under Lodges, Fraternal and Social Organizations operating not for gain. Can it be leased? Yes, but again not for gain.

Committee Discussion:

Naïve: Why do you have to have handicap access to all the buildings when you provide handicapped parking? A. Federal Law

Gonzales: Would like to add a condition on #13 "no amplified music". The neighbors need that protection.

Bourquin: The hours should be no later than 10:00 PM on #13.

Naïve: Moroldo's operates in the area. Do they have limited hours? A. No

Guerrant moved to recommend the hours on Condition #13 read 6:00 AM to 10:00 PM. Gonzales seconded the motion. Motion passed unanimously.

Bourquin: If the vacation rentals have 6 garages, does that exceed the county requirement. A. Yes

Coverdell: We need to keep the condition for pedestrian access on the property with access to the next level. I move to recommend amending condition #2 to remove the words “including stairs”. Gonzales seconded the motion. Motion passed unanimously.

Gonzales moved to recommend amending condition #13 to read “no outdoor amplified music during the hours of operation.” Coverdell seconded the motion. Motion passed unanimously.

Ridderhoff: Can you condition that the office above the Fellowship Hall be a private office? A. None

Guerrant: Is it necessary to change the language for one-way traffic? A. No. It still has to comply with county regulations.

Coverdell: Moved to recommend condition #15 be changed to reflect Flathead County requirements for beginning construction. Guerrant seconded the motion. Motion passed unanimously.

Naïve: Moved to recommend condition #18 remove “including the minimum guidelines indicated in the staff report and” and add, “for approval” in the final sentence “The landscaping plan shall be submitted to the planning office prior to construction.” Hanson seconded the motion. Motion passed unanimously.

Guerrant: Moved the committee recommend the application be accepted with the conditions included in the staff report and further recommendations by BLUAC. Gonzales seconded the motion. Motion passed unanimously.

The Board of Adjustment will hear the application on Tuesday, August 7, 2007, 6:00 PM, at the Earl Bennett Building, 1035 First Avenue West, Kalispell.

C. A Zone Change request in the Bigfork Zoning District, by C & G Properties, From R-4 (Two family Limited Residential), to B-2 (General Business). The property is located at 130 Village Lane.

STAFF: Eric Giles noted the B-2 zoning adjacent to the property and the application complies with the BNP. The property has a single dwelling. The property does not comply with lot requirements but could be used to expand existing commercial. Recommend approval.

APPLICANT: Tom Hoover spoke for C & G Properties. The intention is to remove the A frame to add parking for the short term on the 3,800 sq. ft. lot. John Lang owns the commercial property across the street and approves this use.

Guerrant: B-2 zoning is at odds with residential areas.

PUBLIC COMMENT:

Galen Matney: I live on Village Lane. He produced a letter with 9 of the 14 homeowners on Village Lane in opposition to the application. He stated that in 1994 the residents had petitioned the County Commissioners to rezone the area as residential because the BNP had zoned it all B-2. That petition was granted. He also stated that Mr. Chrysler had told him he wanted to put a structure on the lot.

John Shannahan: We were told by the Commissioners in 1994 that no more commercial zoning would be permitted in this area.

Eric Giles: That would not be feasible and does not comply with the existing non-conforming use.

COMMITTEE DISCUSSION:

Ridderhoff: In looking at the tract map, all the lots look the same size.

Gonzales: If the existing home burned, would it have to comply? A. No. They could build on the same footprint.

Hanson: I would like to recuse myself from this application.

Guerrant: Moved to recommend denial of the application. Naïve seconded the motion.

Bourquin: It makes a difference to me that 9 of the 14 residents are opposed.

Gonzales: I don't see how this would negatively impact the area.

Naïve: I don't see the need for a Zone change now, especially without a plan for use. I would rather see a plan for use.

Guerrant: When you purchase property, the expectation is that it will remain the same and protect the value. I don't think it's fair to the residents to push the commercial back toward the residential.

The motion to deny was passed by a 5-1 vote.

OLD BUSINESS:

A. Branding Iron Station: Bourquin asked BJ Grieve to explain the condo law regarding renting versus selling commercial space. BJ explained that Condo law is not well developed in Montana. MCA 76-3-203 provides for exemption for certain condominiums and the Branding Iron Station falls under that exemption. All must meet DEQ standards. What is needed is city, county and state coordination. There are many loopholes in the regulations and we see these issues on a daily basis.

B. BNP Workshop: Gonzales reported that the August 23, 2007 workshop might have to be rescheduled due to the vacation schedule of BJ Grieve. She did provide BJ with the electronic file for the BNP Draft so that he might use it to comment on suggestions and changes. The committee discussed the procedure for considering changes to the Draft. The general consensus is that the same procedure will be used as in drafting the BNP. The BSC will consider the changes, then forward their recommendations to BLUAC for consideration and adoption.

C. Windsor Drive: Bourquin reported that the Commissioners voted unanimously to deny the Windsor Drive (Tanner) application.

D. Sign Violations: Bourquin reported that Bigfork Auto Parts has again placed a portable sign at their business. Gonzales moved a letter be sent to Bigfork Auto Parts to inform them of the violation of sign regulations. Bourquin seconded the motion. Motion passed unanimously.

E. Sign Violations/Automated: There was discussion as to a procedure to issue letters for violations via email approval. The general consensus was to wait for a public meeting and also get the advise of Craig Wagner as to such a procedure.

F. Overlay Zoning: There was discussion about the decision of the Commissioners to not allow overlay zoning. The reason given was the funds it would require for enforcement. Bourquin asked if it would make sense to send a letter stating that the County receives more funds from Bigfork than it gives back. Also, as the majority is in favor of overlay zoning and the BSC and BLUAC would request the Commission to reconsider. Naïve suggested we give it some more time. It warrants more discussion and would prefer to wait until the BNP is approved.

NEW BUSINESS:

A. None.

PUBLIC COMMENT:

None

Meeting was adjourned at 8:00 PM M/S Gonzales/Coverdell

Sue Hanson
BLUAC Secretary